

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

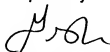
Paragraph [0004] of the published application explains that while there are advantages to sterilized products, there are disadvantages as well. One such disadvantage is UHT gelation or age thickening. Paragraph [0004] indicates that this problem is seen in sterilized protein-containing products, but not in products which are only pasteurized.

As set forth in paragraph [0016], the invention is directed to the discovery that addition of a small amount of emulsifier reduces the gelation of sterilized protein containing suspensions. Claim 1 recites a sterilized aqueous suspension comprising protein and fat or a fat replacer and from 0.01 to 1wt% emulsifier with a hydrophilic/lipophilic balance of at or below 16 wherein the emulsifier is a monoglyceride. The suspension further includes a phytosterol or ester thereof.

The Office asserts that the invention would be obvious in view of Auriou WO 02/065859 over Goto US Patent No. 6,326,050. The Office argues that applicants attack the references individually. However, even if the Office had correctly set forth a proper prima facie of obviousness, this would not negate unexpected results. Present Example 1 discloses an experiment wherein compositions with monoglyceride are disclosed not to show any age gelation whereas compositions without monoglyceride are indicated to show lumps and a cream layer. The Office has not explained why this experiment is insufficient to show an unexpected result for the compositions according to the invention. Therefore, it is respectfully requested that the rejection be withdrawn or that the Office explain why the example fails to demonstrate the patentability of the claimed invention.

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,



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